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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,645

09/30/2003

Julian Mitchell

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EXAMINER

WHIPPLE, BRIAN P

ART UNIT

PAPER NUMBER

2452

NOTIFICATION DATE

DELIVERY MODE

05/25/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/675,645	<b>Applicant(s)</b> MITCHELL ET AL.	
	<b>Examiner</b> BRIAN P. WHIPPLE	<b>Art Unit</b> 2452	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 23 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/THU NGUYEN/  
 Supervisory Patent Examiner, Art Unit 2452

Brian P. Whipple  
 /B. P. W./  
 Examiner, Art Unit 2452

5/10/10

Continuation of 11. does NOT place the application in condition for allowance because: the applicant's arguments have been previously addressed. See the final Office action mailed on 2/25/10. The applicant argues the admitted prior art and Mott fail to disclose the subject matter, but the examiner maintains that the admitted prior art discloses the bulk of the subject matter save the integration of the VPN media proxy and VPN gateway. As discussed in the previous Office action, the examiner maintains that the suggestions of the prior art, such as Mott, as well as the general knowledge available to one of ordinary skill in the art, would lead one to integrate parts in order to reduce complexity and save resources. The applicant's contention that this is not always desirable is not persuasive, as the mere fact that integration is not always desirable, does not mean it is not in this case. Mott discloses integration as discussed in the previous Office action.

Specifically, the applicant argues on page 3 of the remarks that "Mott teaches no more than that it is possible for a VPN gateway shared by two VPN clients residing on individual user devices to serve as a replacement for a DNS server. If the teaching of Mott was applied to the Applicant's admitted prior art, the result might be that respective VPN clients residing on two of the user devices on one of the VPN sites (e.g. the blue site) would share a VPN gateway acting as DNS server. This bears no relation to what is happening at the point where first and second data networks are interfacing with each other, one of which interconnects several virtual private networks. Thus even if the teaching of Mott was applied to the Applicant's admitted prior art, the result would not be the communications system claimed in claim 20. Put another way, it does not follow from Mott that it is possible for a VPN gateway shared by a plurality of virtual private networks (not VPN clients), which is not even comparable to the VPN gateway of Mott, to be integrated with the functionality of a media proxy interfacing first and second data networks thereby connecting the second data network to the plurality of VPNs in the first data network."

However, the examiner maintains that the applicant is improperly attacking the references individually and more specifically characterizing the examiner's rejection improperly. As discussed in paragraph 3 of the previous Office action, the admitted prior art discloses a VPN gateway shared by a plurality of VPNs (i.e., networks) (see Fig. 2 of the applicant's drawings). In other words, the applicant attacks Mott for not disclosing the specific embodiment of the VPN gateway, but the admitted prior art discloses this concept. Therefore, the language being addressed by Mott is "the VPN media proxy integrating the functionality of a VPN gateway with the functionality of a media proxy." The language simply refers to "a VPN gateway" and a VPN gateway integrated with a media proxy is properly rejected by Mott ([0029]; [0034]). The specifics of the VPN gateway as argued by the applicant are properly rejected by the admitted prior art. Therefore, the combination of the admitted prior art and Mott would result in the claimed invention, contrary the applicant's assertion. As stated on page 6 of the previous Office action, "APA discloses the media proxy and therefore the combination of APA's media proxy with the integration of a proxy into a VPN gateway as disclosed by Mott would result in the claimed invention; furthermore the term 'media proxy' is a broad and relative one that is not further narrowed by the applicant."

As to the applicant's contention that the prior art would not be properly integrated (see page 4 of the remarks regarding "generalize the teachings of Mott to assert that Mott suggests the integration..."), the examiner respectfully disagrees. The examiner feels the integration would be proper and result in the claimed invention. However, for the sake of argument, the examiner also points out the following: the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

The examiner maintains that "the combined teachings of the references" of the admitted prior art and Mott clearly "would have suggested to those of ordinary skill in the art" the claimed invention.

Brian P. Whipple  
/B. P. W./  
Examiner, Art Unit 2452  
5/10/10